

PUBLIC ORDER EMERGENCY COMMISSION

IN THE MATTER OF AN INQUIRY

held pursuant to section 63 of the *Emergencies Act*, R.S.C., 1985, c. 22

Affidavit of Sarah Paquet

I, Sarah Paquet, of the municipality of Chelsea in the Province of Quebec,
affirm as follows:

1. I am the Director and Chief Executive Officer (CEO) of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).
2. At the request of the Public Order Emergency Commission, FINTRAC has prepared an Institutional Report, attached as Exhibit A.
3. As the Director and CEO of FINTRAC, I have knowledge of the topics discussed in the Institutional Report for FINTRAC, namely, the organizational structure and responsibilities of FINTRAC and role played by FINTRAC with respect to the 2022 "Freedom Convoy". I affirm that the contents of the Institutional Report are true and accurate.

Affirmed before me at the City of Ottawa,)
in the Province of Ontario, this 13 day)
of October, 2022)
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A Commissioner for Taking Affidavits



Sarah Paquet

This is Exhibit A referred to in the
affidavit of Sarah Paquet
affirmed before me
October 13, 2022



A Commissioner of Oaths
and Notary Public for
the Province of Ontario

Gordon J. Kirk
LSO # 33955G

PUBLIC ORDER EMERGENCY COMMISSION

GOVERNMENT OF CANADA - INSTITUTIONAL REPORT

**THE FINANCIAL TRANSACTIONS AND REPORTS ANALYSIS CENTRE OF
CANADA (FINTRAC)**

1 AGENCY OVERVIEW

A. Organizational Structure

- 1.1 The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC or the Centre) is a federal agency created under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA). FINTRAC is overseen by a Director who is also the chief executive officer. The Director has the rank and all the powers of a deputy head of a department.
- 1.2 Sarah Paquet is the current Director and Chief Executive Officer of FINTRAC. She has held this position since November 2020.
- 1.3 FINTRAC is organized into six sectors. Three of these sectors are relevant to the invocation of the *Emergencies Act* (EA) and *Emergency Economic Measures Order* (EEMO): (i) Compliance; (ii) Intelligence; and (iii) Partnerships, Policy, and Analysis (PPA). Each of these sectors is headed by a Deputy Director.

B. Responsibilities

- 1.4 FINTRAC is Canada's financial intelligence unit (FIU). It is an administrative federal government agency, mandated under the PCMLTFA to assist in the detection, prevention and deterrence of money laundering (ML) and terrorist activity financing (TF) while ensuring the protection of personal information under its control.
- 1.5 The Centre is mandated to act at arm's length and to be independent from law enforcement agencies and other entities to which it is authorized to disclose information (referred to as disclosure recipients).¹ Based on this arm's length requirement, recipients of FINTRAC's analytical product can neither direct nor interfere with (nor give the appearance of directing or interfering with) FINTRAC's decision-making processes and operations.

¹ Section 40(a), PCMLTFA

- 1.6 When FINTRAC was created in 2000, it was established that the agency would report through the Minister of Finance, rather than the Minister of Public Safety (who is responsible for a number of FINTRAC's disclosure recipient organizations).
- 1.7 FINTRAC does not have investigative powers, nor does it have the authority to monitor transactions in real time, directly access financial transactions, freeze bank accounts or seize funds, ask any entity to freeze or seize funds, or cancel or delay financial transactions.
- 1.8 FINTRAC has two separate and distinct operational mandates – 'Compliance' and 'Intelligence.'
- 1.8.1 Under its Compliance mandate, FINTRAC ensures that persons and entities that are required to comply with Parts 1 and 1.1 of the PCMLTFA and its Regulations (referred to as reporting entities) meet their legislated obligations, which include reporting, record keeping, and identifying their clients, among others.
- 1.8.2 Under its Intelligence mandate FINTRAC produces and disseminates both tactical and strategic intelligence. These two aspects of the Centre's intelligence mandate are undertaken by the Intelligence and PPA Sectors respectively.
- 1.8.3 Strategic intelligence is used to identify general trends, typologies, and emerging developments in the context of ML/TF activities, based on a combination of open source information, accessible databases and analysis of FINTRAC data holdings. It cannot be about specific individuals or entities². The production and distribution of strategic intelligence differs from tactical financial intelligence, which is relevant to investigations or prosecutions of ML or TF or relevant to threats to the security of Canada³. Tactical financial intelligence references "designated information" as defined by the PCMLTFA regarding specific individuals and entities and associated financial transactions.
- 1.8.4 Both strategic and tactical intelligence inform one another, but ultimately serve different functions in accordance with the provisions of the PCMLTFA relevant to each function. Strategic intelligence is governed by sections 58(1) and (2) of the PCMLTFA, while the production and disclosure of tactical financial intelligence is governed by sections 54(1)(c), 55(3), 55.1 and 56.1 of the PCMLTFA.

² Section 58(2), PCMLTFA

³ Threats to the security of Canada has the same meaning as in section 2 of the *Canadian Security Intelligence Service Act*, R.S.C. 1985, c. C-23

- 1.9 Every two years, the Privacy Commissioner reviews the measures taken by the Centre to protect information it receives or collects under the PCMLTFA.⁴
- 1.10 Due to the sensitive nature of the information provided to FINTRAC, as well as the intelligence functions performed by the Centre, FINTRAC protects the identities of the individuals who have access to its operational data holdings and who conduct its intelligence operations.
- 1.11 In line with the protection of the sensitive information under FINTRAC's control and in order to ensure that the information FINTRAC receives is only used for purposes related to the Centre's mandate, section 59(1) of the PCMLTFA provides FINTRAC with a general immunity from compulsory processes. FINTRAC and its employees are only required to comply with a subpoena or other compulsory process if it is issued in the course of court proceedings in respect of an ML/TF offence or an offence under Part 5 of the PCMLTFA.
- 1.12 FINTRAC's activities include:
- Receiving financial transaction reports and voluntary information in accordance with the PCMLTFA and its Regulations;
 - Analyzing and assessing the financial transaction reports and information FINTRAC receives in order to determine whether legislated thresholds for disclosure are met.
 - Maintaining a registry of money services businesses (MSBs), and foreign money services businesses (FMSBs) who direct services at persons or entities in Canada;
 - Ensuring compliance with Parts 1 and 1.1 of the PCMLTFA;
 - Researching and analyzing data from a variety of information sources (including open sources and FINTRAC's own database) that shed light on trends and developments in ML/TF; and
 - Enhancing public awareness and understanding of ML/TF.
- 1.13 FINTRAC receives prescribed financial transaction reports from reporting entities (mandated under Parts 1 and 1.1 of the PCMLTFA), as well as voluntary information from law enforcement agencies, government departments and agencies, international counterparts, and members of the public. FINTRAC may also access publicly available information and certain databases for its analysis. Information on the reports and information that FINTRAC receives is set out in more detail below.

⁴ Section 72(2), PCMLTFA.

C. Compliance Sector

- 1.14 Donna Achimov is the Chief Compliance Officer and Deputy Director (Compliance). She has served in that role since September 2019.
- 1.15 The Compliance Sector works with reporting entities to ensure their compliance with the obligations contained in Parts 1 and 1.1 of the PCMLTFA through the three pillars of its compliance program: assistance, assessment and enforcement activities.
- 1.16 Compliance with the PCMLTFA is intended to prevent, detect and deter criminals from using Canada's economy to launder the proceeds of crimes or to finance terrorist activities. It also ensures that the Centre receives the information it needs to produce financial intelligence for Canada's police, law enforcement and national security agencies.
- 1.17 In order to fulfil its compliance mandate, FINTRAC is granted powers under sections 62-63.1 of the PCMLTFA, including the powers to conduct examinations and to require information from reporting entities for the purpose of assessing their compliance with Parts 1 and 1.1 of the PCMLTFA. FINTRAC does not require a warrant to enter any premises of a reporting entity (unless the premises are a dwelling-house and FINTRAC does not have the consent of the occupant to enter).
- 1.18 In order to avoid the possibility that information obtained by FINTRAC under its administrative/regulatory powers could be used in a criminal proceeding related to ML or TF, FINTRAC strictly limits information sharing between the Compliance Sector and the Intelligence Sector.
- 1.19 The reporting entity sectors subject to the PCMLTFA are:
- Financial entities⁵;
 - Life insurance companies, brokers and agents⁶;
 - Securities dealers⁷;
 - Money Services Businesses (MSBs) and Foreign Money Services Businesses (FSMBs)⁸;
 - Agents of the Crown that accept deposit liabilities, that issue or sell money orders to, or redeem them from the public, or that sell precious metals⁹;

⁵ Section 5(a), (b), (d), (e), (e.1), (f) of the PCMLTFA

⁶ Section 5(c) of the PCMLTFA

⁷ Section 5(g) of the PCMLTFA

⁸ Section 5(h) and (h.1) of the PCMLTFA. MSBs are persons and entities engaged in the business of foreign exchange dealing, remitting funds or transmitting funds by any means, issuing or redeeming money orders, traveler's cheques or other similar negotiable instrument, dealing in virtual currencies or any prescribed service. On April 5, 2022, crowdfunding platforms and payment service providers became MSBs for the purposes of the PCMLTFA and its regulations.

⁹ Section 5(l) of the PCMLTFA

- Accountants and accounting firms¹⁰;
 - Real estate brokers, sale representatives and developers¹¹;
 - Casinos¹²;
 - Dealers in precious metals and precious stones¹³; and
 - Public notaries and notary corporations of British Columbia¹⁴.
- 1.20 As part of their obligations, reporting entities are required to establish a compliance program, identify clients, keep records and report certain types of financial transactions to FINTRAC, among other things.
- 1.21 FINTRAC's Compliance sector works with reporting entities to guide them in understanding and complying with their obligations by providing assistance through a number of channels, such as online publications, outreach and engagement, and technical support.
- 1.22 Reporting entities are required to submit six (6) types of reports to FINTRAC¹⁵, as follows:
- Large Cash Transaction Report (LCTR)¹⁶: submitted to FINTRAC when a reporting entity receives \$10,000 or more in cash in the course of a single transaction, or multiple transactions totaling \$10,000 or more made within 24 consecutive hours.
 - Large Virtual Currency Transaction Report (LVCTR)¹⁷: submitted to FINTRAC when a reporting entity receives virtual currency (VC) in an amount equivalent to \$10,000 CAD or more in the course of a single transaction, or multiple transactions that total the equivalent of \$10,000 CAD or more within 24 consecutive hours.
 - The requirement to submit LVCTRs was introduced in June 2021¹⁸ to respond to ML/TF risks associated with virtual currencies. Please note that virtual currencies may also referred to as cryptocurrencies.
 - Electronic Funds Transfer Report (EFTR)¹⁹: submitted to FINTRAC when a reporting entity, at the request of a client, initiates or finally receives instructions for the

¹⁰ Section 5(j) of the PCMLTFA

¹¹ Section 5(i) of the PCMLTFA

¹² Section 5(k)-(k.3) of the PCMLTFA

¹³ Section 5(i) of the PCMLTFA

¹⁴ Section 5(j) of the PCMLTFA

¹⁵ Sections 7, 7.1 and 8 of the PCMLTFA; specifics by sector are found within the PCMLTFR; what is included in each report type is found within the reporting schedules

¹⁶ Schedule 1 PCMLTFR

¹⁷ Schedule 4 PCMLTFR

¹⁸ Notice on the assessment of obligations coming into force on June 1, 2021 (fintrac.ca/notice)

¹⁹ Schedules 2 and 3 PCMLTFR

transfer of \$10,000 or more (to or from outside of Canada) in a single transaction, or multiple transactions totaling \$10,000 or more within 24 consecutive hours

- Casino Disbursement Report (CDR)²⁰: submitted to FINTRAC when a Casino makes a disbursement of \$10,000 or more in a single transaction, or multiple disbursements that total \$10,000 or more within 24 consecutive hours.
- Suspicious Transaction Report (STR)²¹: submitted to FINTRAC when a reporting entity has reasonable grounds to suspect that a financial transaction that occurs, or is attempted, is related to the commission or attempted commission of an ML/TF offence. There is no monetary threshold for submitting an STR.
- Terrorist Property Report (TPR)²²: submitted to FINTRAC by a reporting entity immediately once they are required to make a disclosure under the *Criminal Code* or the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism.

- 1.23 LCTRs, LVCTRs, EFTRs, and CDRs are referred to as “threshold reports” (based on the \$10,000 reporting threshold), while STRs and TPRs require analysis by reporting entities to assess whether the legal threshold for reporting to FINTRAC (set out in the PCMLTFA) has been met.
- 1.24 FINTRAC receives Cross-Border Currency Reports (CBCRs) and Cross-Border Seizure Reports (CBSRs) from the Canada Border Services Agency (CBSA), which is responsible for administering Part 2 of the PCMLTFA and the Cross-Border Currency and Monetary Instruments Reporting Regulations.
- 1.25 With respect to STRs, FINTRAC provides guidance on how to submit STRs, what must be included in these reports²³, and provides ML/TF indicators for each reporting sector²⁴.
- 1.26 STRs include the relevant facts, context, and ML/TF indicators that enabled the reporting entity to conclude that it had reasonable grounds to suspect that the transaction (attempted or completed) was related to the commission or attempted commission of an ML/TF offence.

²⁰ Section 71 and Schedule 6 of the PCMLTFR

²¹ Section 7 of the PCMLTFA, and the PCMLTF Suspicious Transaction Reporting Regulations

²² Section 7.1 of the PCMLTFA and the PCMLTF Suspicious Transaction Reporting Regulations

²³ What is a suspicious transaction report? (canada.ca)

²⁴ All FINTRAC guidance (canada.ca)

- 1.27 Under the Regulations, a reporting entity is required to submit an STR to FINTRAC “as soon as practicable” after they have taken measures that enabled them to establish that there are reasonable grounds to suspect that the transaction or attempted transaction is related to the commission or attempted commission of an ML or TF offence.²⁵ In this context, the report must be completed promptly, taking into account the facts and circumstances of the situation. While some delay is permitted, it must have a reasonable explanation.
- 1.28 ML/TF indicators are potential “red flags” that can initiate suspicion and indicate that something may be unusual without a reasonable explanation. Red flags typically stem from one or more facts, behaviours, patterns or other factors that identify irregularities related to a client's transactions that merit further assessment by the reporting entity to assess whether the transaction(s) meets the threshold to submit an STR to FINTRAC. These transactions often present inconsistencies with what is expected or considered normal based on the facts and context a reporting entity knows about its client and their transactional activities.
- 1.28.1 For example, typical indicators of ML/TF could include that: the transactional activity (level or volume) is inconsistent with the client's apparent financial standing; their usual pattern of activities or occupational information; a transaction is unnecessarily complex for its stated purpose; or a client makes enquiries/statements indicating a desire to avoid reporting.
- 1.29 For the purpose of assessing compliance, FINTRAC applies a risk-based approach to selecting reporting entities for compliance examinations. This selection is based on various risk assessment methodologies and strategies employed by FINTRAC. By using this approach, FINTRAC ensures that compliance activities are commensurate with the risk and potential impact of non-compliance.
- 1.30 At the conclusion of an examination, a FINTRAC compliance officer provides the examined reporting entity details of their findings as part of an exit interview. Following the exit interview, these findings are communicated to the reporting entity by way of a Findings Letter, which will state either of these possibilities:
- No further compliance or enforcement action;
 - Possible follow-up compliance action; or
 - A recommendation for an enforcement action, such as an administrative monetary penalty (AMP).

²⁵ Subsection 9(2) PCMLTF Suspicious Transaction Reporting Regulations

- 1.31 Failure to comply with Parts 1 and/or 1.1 of the PMCLTFA may result in the imposition of an AMP or in a non-compliance disclosure (NCD) to police, in circumstances that are more serious. NCDs may be used by police in their non-compliance investigations and may lead to charges under Part 5 of the PCMLTFA. AMPs and criminal charges for non-compliance offences cannot be imposed/laid in respect of the same instances of non-compliance.
- 1.32 The purpose of FINTRAC's AMP program is to encourage future compliance with the PCMLTFA and its Regulations and to promote a change in behaviour. The AMP program supports FINTRAC's mandate by providing a measured and proportionate response to particular instances of non-compliance. FINTRAC is committed to working with reporting entities to help them achieve compliance. AMPs are not issued automatically in response to non-compliance, as typically other compliance actions are taken to change behaviour before a penalty is considered.
- 1.33 Finally, the Compliance sector also maintains a registry of MSBs, and FSMBs who direct and provide services to persons or entities in Canada.

D. Intelligence sector

- 1.34 The Intelligence Sector is responsible for tactical financial intelligence. Barry MacKillop is the Deputy Director (Intelligence). He has held that position since September 2011.
- 1.35 The Intelligence sector analyses and assesses reports and information received by the Centre and develops tactical financial intelligence which is disclosed to legislated recipients (referred to as disclosure recipients) when specific legal thresholds are met.
- 1.36 In addition to the mandatory reporting received from reporting entities under the PCMLTFA, police, government departments and agencies, and members of the public may voluntarily provide FINTRAC with information about, or related to, suspicions of ML/TF. These voluntary submissions are referred to as Voluntary Information Records (VIRs).
- 1.37 FINTRAC conducts extensive analysis and assessment of the financial transaction reports and information it receives. This includes publicly available information, VIRs and/or information obtained through access to certain databases related to law enforcement and national security. Based on its analysis, FINTRAC establishes linkages between individuals and entities and their financial transactions and determines whether one or more of the Centre's legislated thresholds for disclosure are met.
- 1.38 The general steps in tactical financial intelligence analysis and production are:

- Receive the reports sent by reporting entities (including STRs) and CBSA, and information voluntarily provided by law enforcement, government departments and agencies, foreign FIUs, and the general public (VIRs).
- Detect financial flows or patterns through STRs, threshold reports and open source (e.g. such as media reports) and publically available information and databases, that it suspects relate to a suspicion of ML, TF, or threats to the security of Canada.
- Analyze and assess the reports and information to determine whether any of the legislated thresholds set out in the PCMLTFA are met.
- Disclose tactical financial intelligence to specific recipients listed in the PCMLTFA (based on one or more of the legal thresholds in the PCMLTFA).

1.39 FINTRAC's Intelligence sector determines whether there are reasonable grounds to suspect that financial intelligence (defined as "designated information" in the PCMLTFA) would be relevant to investigating or prosecuting a ML or TF offence or is relevant to threats to the security of Canada.

1.39.1 The entities to which FINTRAC is required to disclose information on the basis of legislated thresholds identified in the PCMLTFA are: the RCMP, municipal and provincial police forces, CSIS, the Canada Revenue Agency (CRA), CBSA, the Communications Security Establishment (CSE), provincial securities regulators, the Department of National Defence/ Canadian Armed Forces, Competition Bureau, Revenu Québec.

1.39.2 FINTRAC may also disclose information to foreign FIUs where an MOU for the sharing of information is in place. Disclosures of tactical financial intelligence to other FIUs must also meet specific legislated thresholds set out in the PCMLTFA.

1.40 FINTRAC's authorities to disclose tactical financial intelligence center around two "primary" legal thresholds set out in the PCMLTFA— one related to ML/TF and one related to threats to the security of Canada. The nature of the tactical financial intelligence that FINTRAC is authorized to disclose is also listed in the PCMLTFA and is referred to as "designated information" (a defined term in the PCMLTFA).

- 1.41 As it relates to ML/TF, FINTRAC is required to disclose tactical financial intelligence to the appropriate police force where the Centre determines, on the basis of its analysis and assessment of the reports and information it receives²⁶, that there are reasonable grounds to suspect that designated information would be relevant to investigating or prosecuting either an ML offence²⁷ or a TF offence^{28, 29}.
- 1.42 FINTRAC is also required to disclose tactical financial intelligence related to ML/TF to other government departments and agencies listed in the PCMLTFA where, in addition to meeting the “primary” legal threshold for disclosure to police, the Centre also meets one of the “secondary” thresholds set out in the PCMLTFA that is related to the mandate of one of the following legislated recipients: CRA³⁰, Revenu Québec³¹, CBSA³², CSE³³, the Competition Bureau³⁴, or a provincial securities commission.³⁵
- 1.43 As it relates to threats to the security of Canada, FINTRAC is required to disclose tactical financial intelligence to CSIS where it determines, on the basis of the analysis and assessment of the reports and information it receives³⁶, that there are reasonable grounds to suspect that designated information would be relevant to threats to the security of Canada.³⁷
- 1.44 In addition to meeting the “primary” threshold for disclosure of financial intelligence to CSIS, when FINTRAC also determines that a “secondary” legislated threshold related to threats is met, the Centre must disclose its threats-related intelligence to additional recipients set out in the Act: police³⁸, CBSA³⁹ and/or the Department of National Defence and the Canadian Forces.⁴⁰

²⁶ Section 54 (1) (c) of the PCMLTFA

²⁷ Section 2, “money laundering offence” means an offence under subsection 462.31(1) of the Criminal Code.

²⁸ Section 2, “terrorist activity financing offence” means an offence under section 83.02, 83.03 or 83.04 of the Criminal Code or an offence under section 83.12 of the Criminal Code arising out of a contravention of section 83.08 of that Act.

²⁹ Section 55(3)(a)

³⁰ Section 55(3)(b), 55(3)(c)

³¹ Section 55(3)(b.01)

³² Section 55(3)(b.1), 55(3)(d), 55(3)(e)

³³ Section 55(3)(f)

³⁴ Section 55(3)(f.1)

³⁵ Section 55(3)(g)

³⁶ Section 54(1)(c)

³⁷ Section 55.1(1)(a)

³⁸ Section 55.1(1)(b)

³⁹ Section 55.1(1)(c), 55.1(1)(d)

⁴⁰ Section 55.1(1)(e)

- 1.45 Finally, FINTRAC is authorized to receive requests from, and make ML/TF related financial intelligence disclosures to, a foreign FIU where an MOU for the sharing of information has been entered into. FINTRAC may make a disclosure of financial intelligence to a foreign FIU where it has reasonable grounds to suspect that designated information would be relevant to investigating or prosecuting an ML offence, a TF offence, or an offence that is substantially similar to either offence.
- 1.46 FINTRAC receives disclosures from international FIUs, both proactively and in response to FIU queries that FINTRAC sends to foreign FIUs.
- 1.47 Disclosures provide operational support to law enforcement and other disclosure recipients. They are intelligence and provide a detailed and factual account of financial transactions that have been reported to FINTRAC. Tactical financial intelligence may contain information on several related transactions. They often include an overview of the transactions, a summary of financial transactions (broken down by person, entity or institution where the transactions occurred), as well as a graphic chart illustrating the network of transactions included in the disclosure. Disclosures are made and shared electronically through secure means and are available in paper format.⁴¹
- 1.48 Last year, FINTRAC provided 2,292 disclosures of actionable financial intelligence in support of investigations related to ML/TF and threats to the security of Canada. This intelligence contributed to 335 major, resource intensive investigations, and many hundreds of other individual investigations at the municipal, provincial and federal levels across the country and internationally.
- 1.49 The vast majority of the reports FINTRAC receives are “threshold reports”. These reports are submitted by reporting entities without any grounds for suspicion of ML/TF activities, and include LCTRs and EFTRs, which are required to be submitted when a transaction or multiple transactions total \$10,000 or more in a 24 hour period. The majority of these concern legitimate transactions that FINTRAC would have no reason to disclose - and does not disclose - to law enforcement.
- 1.50 Many of the 2,292 disclosures of financial intelligence made last year contained information from hundreds or even thousands of transaction reports, which speaks to the complexity of connecting the flow of illicit funds.

⁴¹ [How FINTRAC Builds a Case \(canada.ca\)](http://canada.ca)

E. Limits on Disclosures by FINTRAC

- 1.51 Under its legislated mandate, FINTRAC is required to ensure that the personal information it has under its control is protected from unauthorized disclosure.⁴²
- 1.52 Given that all of the information in FINTRAC's holdings is received without judicial authorization (i.e. a warrant), the PCMLTFA contains specific safeguards⁴³ to ensure that FINTRAC's operations comply with the *Canadian Charter of Rights and Freedoms* (the Charter), the *Privacy Act*, and FINTRAC's requirement to protect the personal information under its control, and are circumscribed to combat ML/TF specifically.
- 1.53 Section 55(1) of the PCMLTFA prohibits FINTRAC from disclosing any information regarding the reports and information it receives, except in very specific and limited circumstances, to other entities listed in the PCMLTFA. This includes information voluntarily provided to it about suspicions of ML/TF and information prepared by FINTRAC from this information.⁴⁴
- 1.54 FINTRAC is only permitted to disclose information to law enforcement agencies where the specific thresholds discussed above for disclosure under the PCMLTFA are met. Law enforcement agencies do not have direct access to FINTRAC's database.

F. Partnerships Policy and Analysis (PPA) sector

- 1.55 The PPA sector is responsible for the development and coordination of FINTRAC's strategic policy, research and international relationships. PPA comprises three units:
- Strategic Intelligence, Research and Analytics (PPA-SIRA)
 - Strategic Policy and Reviews (PPA-SPAR)
 - International Relationships (PPA-IR)
- 1.56 Annette Ryan is the Deputy Director Partnership, Policy, and Analysis. She has held that position since September 2019.
- 1.57 PPA-SIRA is responsible for the production of strategic intelligence products and research into trends and developments in the area of ML and TF and improved ways of detecting, preventing and deterring ML/TF, as per the authorities granted under the PCMLTFA.⁴⁵

⁴² Paragraph 40(c) PCMLTFA

⁴³ Sections 55(1) and 59(1) PCMLTFA

⁴⁴ Subparagraph 55(1)(d) and (e) PCMLTFA

⁴⁵ Subparagraphs 58(1)(b) and (c) PCMLTFA

- 1.57.1 This mandate is advanced through quantitative and qualitative research techniques that leverage reports and information received pursuant to section 54(1)(a) of the PCMLTFA as well as publicly available information and information obtained from databases pursuant to section 54(1)(b)(i) and (ii) of the PCMLTFA.
- 1.58 As a part of regular and ongoing activities, SIRA also monitors both open source information and internal data holdings to surface evolving and emerging financial trends that can inform financial flows potentially relevant to research in the area of ML/TF under section 58(1)(b) of the PCMLTFA.
- 1.59 These scanning and research efforts are used to support FINTRAC's mandate to enhance public awareness and understanding of matters related to ML/TF. They also provide context, information and indicators related to relevant trends and developments that can help reporting entities, law enforcement, Canada's security and intelligence community, regime partners and policy decision-makers, and international counterparts detect, prevent and deter ML/TF activities inside and outside Canada.
- 1.60 PPA-SPAR leads FINTRAC's work and engagement with key federal policy departments such as Finance Canada. The Department of Finance Canada is responsible for the overall coordination of 13 departments and agencies that form Canada's anti-money laundering and anti-terrorist financing (AML/ATF) regime. It leads policy advice for the regime, taking input from diverse sources across federal departments and agencies. The PPA-SPAR policy group aligns FINTRAC's input into this regime-wide policy development activity.
- 1.61 PPA-IR leads FINTRAC's international activities, including guiding, coordinating, and assisting the international activities of others within FINTRAC. IR also plays a key role in the international policy development activities of FINTRAC and the Government of Canada by providing international advice, support, and perspective to the policy development process. Individual sectors within FINTRAC maintain additional relationships with international counterparts.

2 OBSERVATIONS AND ACTIVITIES PRIOR TO THE IMPLEMENTATION OF THE EEMO

- 2.1 FINTRAC does not have the authority to directly access financial transactions, freeze bank accounts or seize funds, ask any entity to freeze or seize funds, or cancel or delay financial transactions. This did not change under the EA or the EEMO.

- 2.2 At the onset of the Freedom Convoy in mid to late January of 2022, the “Freedom Convoy 2022” GoFundMe campaign was launched and several news articles linked the upcoming Freedom Convoy protest to individuals expressing extremist ideological views.⁴⁶
- 2.3 As a part of its regular and ongoing assessment of open source information, PPA-SIRA reviews media reports, specialist journals and financial advisory publications to help identify new and emerging characteristics, trends and tactics used to launder money or fund terrorist activities. Given the open source nature of some elements of financial transfers that were publically reported in respect of the convoy financing (e.g. online fundraising sites and virtual currency), analysts within SIRA synthesized open source media and explored the risks of TF, which were shared internally to assess the potential alignment with the Centre’s mandate.⁴⁷
- 2.4 On February 2, 2022, GoFundMe announced that it had paused the original Freedom Convoy 2022 campaign. A new crowdfunding campaign was created on the GiveSendGo platform as well as a Tallycoin campaign (a cryptocurrency crowdsourcing platform)⁴⁸. As the protest evolved, separate open source fundraising efforts were conducted using virtual currency (or cryptocurrency). Given the nature of the Centre’s strategic intelligence mandate, PPA-SIRA was well positioned to explain open source developments respecting cryptocurrency.
- 2.5 Throughout the period in question, SIRA analysts followed developments through media, open source information, and other publicly available third-party reporting on the variety of funding models used to finance the Freedom Convoy movement. As informed by the reported funding models, analysts conducted initial scans on the trends and typologies, methods and services used in the movement of those funds.⁴⁹
- 2.6 The pronounced use of online fundraising activities through cryptocurrency on a large scale represented a novel fundraising method.

⁴⁶ See SSM.NSC.CAN.00000076_REL for a summary dated January 2022 entitled “Key Points: Freedom Rally” which provided context of the convoy and financing implications.

⁴⁷ See SSM.NSC.CAN.00000079_REL dated February 2022 entitled “Terrorist Financing Risks of Freedom Convoy”.

⁴⁸ See SSM.NSC.CAN.00000086_REL dated February 10, 2022, for email exchanges on the topic and page 2 of SSM.NSC.CAN.00000089_REL for email exchanges dated February 12, 2022, which reference open source media reporting on GiveSendGo.

⁴⁹ See SSM.NSC.CAN.00000111_REL dated February 15, 2022 regarding email exchanges in regards to trends and typologies methods. See also PB.NSC.CAN.00000001_REL and SSM.NSC.00000074_REL for email exchanges dated February 11, 2022 observing the convoy events and their associated financing.

- 2.6.1 A virtual currency (or cryptocurrency) is a form of digital asset. Many virtual currencies are decentralized networks based on public blockchain technology (for example Bitcoin). Blockchain is a form of public ledger that contains the history of every transaction. The decentralized and transparent nature of the blockchain renders all transactions accessible to anyone with an internet connection. Due to its public open source nature, PPA-SIRA analysts were able to monitor blockchain transactions as part of their general research on the methods and services used by the Freedom Convoy movement to finance that movement.
- 2.7 As explained above, PPA-SIRA considers evolving and emerging financial trends that inform research in the area of ML and TF risks as part of its activities under section 58(1)(b) of the PCMLTFA. FINTRAC does not have a mandate to determine whether individuals or entities are or are not engaged in terrorist activity. FINTRAC is mandated to assess the nature and emerging risks and trends relevant to ML/TF financing. As a part of Canada's intelligence community, FINTRAC received the Integrated Terrorist Assessment Centre of Canada (ITAC)'s assessment of the possibility of violence by individuals associated with movement to support their own ideological objectives.⁵⁰
- 2.8 PPA-SIRA prepared an initial draft summary⁵¹ and subsequent documents⁵² to provide background on the potential TF risks associated with the funding of the Freedom Convoy. The documents provided an overview of the open source intelligence (OSINT) and the financing of the convoy through online fundraising.⁵³
- 2.9 These draft documents were shared within FINTRAC to provide contextual information for members of FINTRAC's senior management and to inform potential analysis. These documents enhanced the Centre's understanding of crowdfunding going forward, as FINTRAC assessed the level of ML/TF risk. These draft documents were not circulated to other departments or agencies.

⁵⁰ See SSM.NSC.CAN.00000083_REL for the ITAC Report, see also SSM.NSC.CAN.00000111_REL and SSM.NSC.CAN.00000074_REL for email exchanges related to SIRA research and analysis.

⁵¹ See SSM.NSC.CAN.00000076_REL for a summary dated January 2022 entitled "Key Points: Freedom Rally" which provided context of the convoy and financing.

⁵² See SSM.NSC.CAN.00000079_REL dated February 2022 entitled "Terrorist Financing Risks of Freedom Convoy" which provided details, summary and overview of OSINT and the nexus of the blockades to terrorist financing.

⁵³ See SSM.NSC.CAN.00000120_REL for NIRA Report dated February 2022 entitled "Summary NIRA Vulnerability Profiles: Crowdfunding and Payment Processing Services Providers"

- 2.10 FINTRAC shared its observations on the Freedom Convoy movement's blockchain transactional activity with the Privy Council Office's Intelligence Assessment Secretariat⁵⁴ in response to an ad-hoc request for information on the financing of the protest. This information was also shared with the Department of Finance Canada and Public Safety Canada. No individual-level information from FINTRAC's internal data holdings was shared.
- 2.11 The financing of ideologically motivated violent extremism or IMVE is an area of interest within the intelligence community. Given that the PCMLTFA authorizes the Centre to research TF financing, as defined in section 2(1) of the PCMLTFA, FINTRAC can inform about the evolving risks of TF financing as they relate to IMVE.
- 2.12 To this end, PPA-SIRA analysts, at times, noted similarities between convoy-related fundraising and indicators of financing of IMVE as observed in previous published strategic intelligence reports. For example, a pattern of leveraging online fundraising websites by IMVE adherents and receipt of funds raised into personal bank accounts, and the use of virtual currencies to fund activities (a growing trend).⁵⁵
- 2.13 Given that federal partners and open source intelligence assessed that the extremist presence within the protests was limited, the risk that funds generated by organizers would ultimately be diverted to terrorist activity was assessed as being low. This was reflected in the draft summary and subsequent documents.
- 2.14 PPA-SIRA works to understand existing or novel fundraising, fund transfer, or fund storage mechanisms or techniques that may have an impact on Canada's terrorism financing landscape. PPA-SIRA's efforts are less about monitoring a singular event or its participants, and are more aptly described as being geared towards identifying and understanding overall terrorism activity financing risks with the intention of sharing insights with other Government of Canada departments, and other stakeholders who might benefit from strategic-level information.

3 DEVELOPMENT AND IMPLEMENTATION OF THE EEMO

A. FINTRAC's Involvement

- 3.1 As previously mentioned, FINTRAC is subject to the policy direction of the Department of Finance Canada. The Department of Finance Canada is the policy lead for the PCMLTFA and its Regulations, and that coordinates the 13 federal departments and agencies that have

⁵⁴ See SSM.NSC.CAN.00000093_REL and SSM.NSC.CAN.00000095_REL for email exchanges between PCO and FINTRAC employees dated February 14, 2022 about convoy financing.

⁵⁵ See SSM.NSC.CAN.00000079_REL dated February 2022 entitled "Terrorist Financing Risks of Freedom Convoy", SSM.NSC.CAN.00000081_REL and SSM.NSC.CAN.00000085_REL for summaries of online fundraising websites and methods.

been identified as partners within the AML/ATF regime. FINTRAC routinely provides general information or assessments to the Department of Finance Canada and regime partners regarding the feasibility of implementing potential policies or amendments and the Centre's operational needs.

- 3.2 FINTRAC was not involved in the decision to invoke the EA or in the development of the Emergency Measures Regulations (EMR). However, certain measures within the EEMO were related to FINTRAC's mandate.
- 3.3 Consistent with routine practice, as information started to emerge about crowdfunding platforms being used to raise funds to support the ongoing protests and blockades, the Department of Finance Canada sought background and context in respect of potential measures it was considering. As such, FINTRAC was contacted by officials from the Department of Finance Canada about potential options that related to its mandate and expertise (e.g. ML/TF risks associated with crowdfunding).
- 3.4 The Department of Finance Canada reached out to FINTRAC to seek its views on the ML/TF risks posed by crowdfunding platforms and to assess whether they were already covered under the PCMLTFA. In preparation for a meeting with Department of Finance Canada officials on February 7, 2022, FINTRAC developed a fact sheet and an assessment of how PCMLTFA obligations would apply or not to such entities.
- 3.5 FINTRAC's involvement was limited to this preliminary research and to the feasibility of implementing different proposed measures⁵⁶ regarding crowdfunding and payment services providers (PSPs). FINTRAC regularly conducts analyses using known scenarios to provide advice to the Department of Finance Canada, which assesses the overall merit of any policy changes to legislation or regulation based on input from FINTRAC and other sources.
- 3.6 On the morning the EA was invoked (February 14, 2022), the Director of FINTRAC discussed with the Deputy Minister at the Department of Finance Canada the draft EEMO and FINTRAC's readiness to implement the EEMO. This was done to allow FINTRAC to prepare and enable the registration and reporting of affected entities.

⁵⁶ See SSM.NSC.CAN.00000084_REL for an email exchange dated February 9, 2022 outlining options presented to the Director on how FINTRAC could respond to the Convoy.

- 3.7 Over the course of that day, FINTRAC provided factual information to the Department of Finance Canada on how the Centre would implement the aspects of the draft EEMO that pertained to FINTRAC.⁵⁷ These discussions served to help the Department of Finance Canada understand the potential impact of proposed measures on the Centre's operations and systems.
- 3.8 After FINTRAC was made aware of the EEMO, FINTRAC's Compliance sector briefly looked at options on how best to implement the requirements. This included researching the potential scope, and exploring potential outreach means and activities.⁵⁸ Due to the immediacy of the EEMO, the Centre ultimately relied on its existing infrastructure systems for awareness, registration and reporting.

B. PCMLTFA Reporting and Disclosures during the EEMO

- 3.9 Based on FINTRAC's analysis of the volume of reports, there were no discernable spikes in STRs or VIRs related to the protest in February and March 2022.⁵⁹
- 3.10 Less than 5 financial transaction reports were received from entities required to report to FINTRAC under the EEMO, and who were not already registered with the Centre (i.e. were not already reporting entities).
- 3.11 While FINTRAC does take into account open source information when performing its analysis, FINTRAC was not aware of who the "designated persons" were and so was not aware of whether or not an individual or entity named in a tactical financial intelligence disclosure was a "designated person".
- 3.12 Prior to and during the invocation of the EA/EEMO, FINTRAC received financial transaction reports from reporting entities and voluntary information from law enforcement agencies, government departments and agencies, and others, in normal course of business. This includes reports and information on transactions associated with some individuals who were engaged in ongoing events at that time.
- 3.13 All disclosures of tactical financial intelligence which were made by FINTRAC to police, law enforcement and national security agencies during the period of the EA/EEMO were made solely under the authorities set out in the PCMLTFA and not under any authority granted by the EA/EEMO.

⁵⁷ See SSM.NSC.CAN.00000091_REL for email from Donna Achimov dated February 14, 2002 in regards to how FINTRAC would implement different aspects of the EEMO.

⁵⁸ *Ibid.*

⁵⁹ See SSM.NSC.CAN.00000108_REL for email exchanges dated February 15, 2022 in regards to reporting STRs and LCTRs.

- 3.14 In every instance, prior to making a disclosure, FINTRAC was satisfied that at least one of the legislated thresholds to disclose tactical financial intelligence set out in the PCMLTFA, was met. As previously mentioned, these primary thresholds require the Centre to have reasonable grounds to suspect that FINTRAC's financial intelligence would be relevant to investigating or prosecuting an ML or TF offence – or would be relevant to threats to the security of Canada.
- 3.15 Notably, the EEMO did not alter reporting entities' reporting thresholds or FINTRAC's disclosure thresholds. FINTRAC was not authorized to disclose information relating to any transaction solely on the basis that it may have related to financing of the blockades.

C. FINTRAC's Engagement with Reporting Entities and Entities affected by the EEMO

- 3.16 Under the EEMO, crowdfunding businesses and certain PSPs were required to register with FINTRAC when they were in possession or control of property that was owned, held, or controlled by, or behalf of, an individual or entity engaged, directly or indirectly, in an activity prohibited in the EMR.
- 3.17 These same entities were required to report certain types of transactions to FINTRAC when there were reasonable grounds to suspect that these transactions were related to the commission, or attempted commission, of an ML/TF offence and when certain thresholds set out in the PCMLTFA and its regulations were met.
- 3.18 The obligation to register and to report were distinct obligations under the EEMO. Both obligations took immediate effect when the EEMO was issued. As a result, crowdfunding platforms and certain PSPs were obliged to both register with FINTRAC and submit any required reports if they fell within the narrow scope of the EEMO noted above.
- 3.19 Following the announcement of the invocation of the EA on February 14, 2022, FINTRAC received calls from some of its reporting entities, as well as entities potentially affected by the EEMO, requesting information on upcoming requirements. At the time, the EEMO had not yet been published and therefore FINTRAC was not in a position to provide such details.⁶⁰
- 3.20 Shortly after the EEMO was published on February 15, 2022, FINTRAC updated its website, registration guidance, and IT systems to enable crowdfunding platforms and certain PSPs to begin the registration process with FINTRAC and to enable the reporting of prescribed and suspicious transactions to the Centre, as per the EEMO.

⁶⁰ See SSM.NSC.CAN.00000104_REL and SSM.NSC.CAN.000000114_REL for emails from February 14 to 16, 2022 describing some of the questions raised by reporting entities about the obligations under the EA and EEMO.

- 3.21 The EEMO was in place between February 15 and 23, 2022. During this time, FINTRAC received 21 applications to register from crowdfunding entities and certain PSPs. FINTRAC was in the process of completing those registrations when the EEMO was revoked and those requirements to register and report to FINTRAC ceased.⁶¹
- 3.22 Given that it normally takes about 30 days to complete the registration process with FINTRAC, there was not sufficient time to complete the registration of any entities in relation to the EEMO prior to its revocation. As such, the Order was revoked with no registrations completed. The PCMLTFA restricts the Centre from sharing the names of the entities that contacted FINTRAC during the EEMO.⁶²
- 3.23 During this time, FINTRAC was contacted by some of the banks (reporting entities) seeking a copy of the list of names/entities identified by law enforcement as being designated under the EEMO. FINTRAC indicated that law enforcement was working closely and directly with Canadian financial institutions and other businesses. If there was a need to share pertinent information, law enforcement would be in direct contact with them.⁶³

D. Subsequent Amendments

- 3.24 Following the revocation of the EA, regulations were drafted to make the coverage of donation-based crowdfunding platforms and certain PSPs permanent, including them as MSBs under the PCMLTFA.
- 3.25 MSBs are subject to the PCMLTFA if they offer a prescribed service.⁶⁴ The amendments to the regulations that came into force on April 5, 2022 added the provision and maintenance of a crowdfunding platform. In addition, FINTRAC revoked its previous policy interpretation regarding the coverage of PSPs and clarified their inclusion as MSBs involved in remitting and transmitting funds and/or virtual currency.
- 3.26 MSBs that were already registered with FINTRAC, and which met the criteria above, were also required to update their registration if they provided and maintained a crowdfunding platform or performed the specified payment services.⁶⁵

⁶¹ See SSM.NSC.CAN.00000097_REL for email exchanges dated February 15, 2022 regarding registration statistics and observations.

⁶² Subparagraph 55(1)(f) PCMLTFA

⁶³ See SSM.NSC.CAN.00000109_REL for an email from Barry MacKillop dated February 15, 2022 in regards to a meeting.

⁶⁴ Paragraph 5(h) PCMLTFA

⁶⁵ See SSM.NSC.CAN.00000121_REL and SSM.NSC.CAN.00000122_REL for email in regards to retaining any STRs submitted to FINTRAC and other retention/disposition practices post EEMO. See also SSM.NSC.CAN.00000097_REL for email exchanges dated February 15, 2022 regarding registration statistics and observations.